

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARVELLOUS A.X. GREENE,

Plaintiff,

No. 2:05-cv-0330 GEB JFM (PC)

vs.

C.D.C., et al.,

Defendants.

ORDER AND

REVISED SCHEDULING ORDER

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Plaintiff is a state prisoner proceeding pro se in a civil rights action under 42 U.S.C. § 1983. On April 30, 2008, plaintiff filed a complaint that was docketed in this action as an amended complaint. On May 9, 2008, defendants filed a document styled as an opposition to the April 30, 2008 amended complaint, and on May 21, 2008, plaintiff filed a response to defendants' opposition. By order filed June 11, 2008, the Clerk of the Court was directed to return to plaintiff a copy of the April 30, 2008 amended complaint. The June 11, 2008 order further provided that all three of the foregoing documents would be disregarded.

On August 22, 2008, plaintiff filed a document styled as an affidavit. In that document, he requests that the April 30, 2008 amended complaint be sent to the Fresno Division of this court, and that his May 21, 2008 response be considered in this action. Plaintiff's request for an order transferring the April 30, 2008 amended complaint to a new action in the Fresno

1 Division of this court will be denied without prejudice. Plaintiff may file a new action in the  
2 Fresno Division by sending a complaint and an application to proceed in forma pauperis or the  
3 appropriate filing fee to the United States District Court Eastern District of California, 2500  
4 Tulare Street, Fresno, CA 93721.

5 Plaintiff's request that his May 21, 2008 response be considered in this action will  
6 also be denied. Even if the May 21, 2008 response is in the nature of a reply to defendants'  
7 answer to the operative complaint in this action, such replies are not permitted except by court  
8 order. See Fed. R. Civ. P. 7. The court declines to make such an order.

9 On August 22, 2008, plaintiff filed a request to add discovery responses to his  
10 pretrial statement. In accordance with the scheduling order filed March 17, 2008, plaintiff's  
11 pretrial statement is not due until December 5, 2008. Plaintiff's request is premature and will  
12 therefore be denied.

13 On August 27, 2008, defendants filed a request for a sixty-two day extension of  
14 time in which to file a motion for summary judgment. In accordance with the March 17, 2008  
15 scheduling order, dispositive motions are due by September 5, 2008. Good cause appearing,  
16 defendants' request for an extension of time will be granted. The deadline for filing dispositive  
17 motions will be extended to November 6, 2008. No further extensions of that deadline will be  
18 granted. In light of this order, the dates for filing pretrial statements, for pretrial conference and  
19 for jury trial set in the March 17, 2008 order will be modified by this order.

20 Good cause appearing, IT IS HEREBY ORDERED that:

21 1. Plaintiff's August 22, 2008 request to have his April 30, 2008 amended  
22 complaint sent to the Fresno Division of this Court is denied without prejudice to plaintiff's right  
23 to file an action in that Court.

24 2. Plaintiff's August 22, 2008 request for consideration of his May 21, 2008  
25 response in this action is denied.

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3. Plaintiff's August 22, 2008 request to add discovery responses to his pretrial statement is denied without prejudice.

4. Defendants' August 27, 2008 request for an extension of time to file a dispositive motion is granted.

5. The scheduling order filed March 17, 2008 is hereby modified as follows:

a. All pretrial motions, except motions to compel discovery, shall be filed on or before November 6, 2008. Motions shall be briefed in accordance with paragraph 7 of this court's order filed August 31, 2005.

b. Plaintiff shall file and serve his pretrial statement and any motions necessary to obtain the attendance of witnesses at trial on or before February 6, 2009. Defendants shall file their pretrial statement on or before February 13, 2009. The parties are advised that failure to file a pretrial statement may result in the imposition of sanctions, including dismissal of this action.

c. Pretrial conference (as described in Local Rule 16-282) is continued from December 19, 2008 to February 20, 2009 before the magistrate judge. The pretrial conference shall be conducted on the file only, without appearance by either party.

d. Jury trial of this matter before the Honorable Garland E. Burrell is continued from January 13, 2009 to May 19, 2009, at 9:00 a.m. in Courtroom 10.

DATED: September 8, 2008.

  
UNITED STATES MAGISTRATE JUDGE